



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/954,975	09/18/2001	Jack Stapleton	IOWA:033US/SLH	7706

7590 11/03/2003

FULBRIGHT & JAWORSKI L.L.P.
SUITE 2400
600 CONGRESS AVENUE
AUSTIN, TX 78701

EXAMINER

ART UNIT	PAPER NUMBER
----------	--------------

DATE MAILED: 11/03/2003

13

Please find below and/or attached an Office communication concerning this application or proceeding.

Notification of Non-Compliance With 37 CFR 1.192(c)	Application No. 09/954,975	Applicant(s) STAPLETON ET AL.	
	Examiner Frank I Choi	Art Unit 1616	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 11 February 2003 is defective for failure to comply with one or more provisions of 37 CFR 1.192(c). See MPEP § 1206.

To avoid dismissal of the appeal, applicant must file IN TRIPLICATE a complete new brief in compliance with 37 CFR 1.192(c) within the longest of any of the following three **TIME PERIODS**: (1) **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer; (2) **TWO MONTHS** from the date of the notice of appeal; or (3) within the period for reply to the action from which this appeal was taken. **EXTENSIONS OF THESE TIME PERIODS MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 1.192(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, pending or cancelled, or does not identify the appealed claims (37 CFR 1.192(c)(3)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 1.192(c)(4)).
4. ☐ The brief does not contain a concise explanation of the claimed invention, referring to the specification by page and line number and to the drawing, if any, by reference characters (37 CFR 1.192(c)(5)).
5. ☐ The brief does not contain a concise statement of the issues presented for review (37 CFR 1.192(c)(6)).
6. ☒ A single ground of rejection has been applied to two or more claims in this application, and
 - (a) ☐ the brief omits the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet presents arguments in support thereof in the argument section of the brief.
 - (b) ☒ the brief includes the statement required by 37 CFR 1.192(c)(7) that one or more claims do not stand or fall together, yet does not present arguments in support thereof in the argument section of the brief.
7. ☐ The brief does not present an argument under a separate heading for each issue on appeal (37 CFR 1.192(c)(8)).
8. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 1.192(c)(9)).
9. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet

[Signature]

[Signature]

**S. MARK CLARDY
PATENT EXAMINER
GROUP 1200**

1616

Continuation of 9. Other (including any explanation in support of the above items): Applicant's section IX. C. appears to merely point out differences in what the claims cover. This is not an argument as to why the claims are separately patentable. Applicant makes the statement that there are a number of claims that stand separately patentable over claim 11. However, Applicant states "for example" and then lists a few claims. It is uncertain whether Applicant means there are more claims than the specifically cited examples. If so, Applicant also fails to present arguments in support of these unmentioned claims. It is noted that Claim 34 is not directed to a method of inhibiting development of AIDS. Applicant knew that these claims were rejected over the prior art as of the first Office Action (11/5/2002). However in responding to the Office Action, Applicant did not any make distinction between Claim 11 and the claims cited as examples. Applicant was required under 37 CFR 1.111(b) to specifically point out how the language of the claims patentably distinguished them from the references and was required under 37 CFR 1.111(c) to clearly point out the patentable novelty which Applicant thinks the claims present in view of the state of the art disclosed by the references cited or the objections made. Further, under 37 CFR 1.192 (c)(8)(iv), for each rejection under 35 U.S.C. 103, Applicant should explain how the limitations render the claimed subject matter unobvious over the prior art and if the rejection is based upon a combination of references, the argument must explain why the references taken as a whole do not suggest the claimed subject matter. .